

EXHIBIT D

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DIVISION OF MONTANA
3 MISSOULA DIVISION

4 Cause No. CV-13-121-M-DWM

5 TAMARA DOWNEN, Individually and as Personal
6 Representative for the ESTATE OF STANLEY L. DOWNEN,
7 deceased,

8 Plaintiff,

9 vs.

10 MONTANA VETERANS' HOME; STATE OF MONTANA DEPARTMENT OF
11 PUBLIC HEALTH SERVICES; CITY OF COLUMBIA FALLS;
12 MIKE JOHNSON; and DAVID G. PERRY,

13 Defendants.

14
15 DEPOSITION OF VICKY BRIGGS
16 November 26, 2013

17
18
19 Pursuant to Notice and the Federal Rules of
20 Civil Procedure, this deposition, called by Plaintiff, was
21 taken at 145 Commons Loop, Suite 200, Kalispell, Montana,
22 at 10:54 a.m., before Sheri J. Hazlett, Registered
23 Professional Reporter and Notary Public of the State of
24 Montana.

Page 12

1 Q And that was the first time you saw him?

2 A Yes.

3 Q What was he doing?

4 A He was at the first door that goes into a foyer
5 and going to the outside Door 2.

6 Q The first door is kind of covered up by the
7 green line there; is that right?

8 A Yeah.

9 Q Who was walking with Mr. Downen?

10 A Another CNA.

11 Q Do you know that CNA's name?

12 A He doesn't work there anymore.

13 Q I think there a Sam and a Leo.

14 A Leo would be the one that would be with him at
15 that time.

16 Q Then what happened?

17 A As I'm going down the hall, Leo was, like I
18 said, at the -- I guess it would be the green line there,
19 and he let me know that this resident was getting out and
20 he would probably need some help with him, because he was
21 very agitated. I said okay.

22 Q Let me stop you there. When did Leo tell you
23 that the resident was getting out, was that before they
24 went through those first doors?

25 A Well, the first door was already open. They

Page 13

1 were like standing there with the door open, he was
2 leaving, the resident.

3 Q **And are those doors just held open then?**

4 A No. You have to open them.

5 Q **Who was holding the door open?**

6 A Leo at the time, because the resident had
7 already gone through that door heading for the outside
8 door, which is No. 2.

9 Q **Then what happened?**

10 A Well, I said, Leo, well, we'll see if we can
11 direct him back in. And the resident was very fast, out
12 Door 2. By the time we had got -- well, I had caught up
13 with him, he had picked up two rocks.

14 Q **Okay.**

15 A And he was very agitated, and he said he was
16 going home.

17 Q **Let me see if I can straighten this out a little**
18 **bit. So Leo was holding open these doors here that are**
19 **covered by up the green line, is that right, when he first**
20 **talked to you?**

21 A Yes, he was there. The resident had already
22 gotten out that door and was headed for Door 2.

23 Q **And you were approximately at the junction of**
24 **Hall 3 and Hall 1; is that right?**

25 A Yes.

Page 15

1 not listening.

2 Q Okay. What other things did you do to redirect
3 him at that point in time?

4 A To redirect. Well, like I say, he wasn't
5 listening. I -- there was nothing else we could really
6 do. He was very agitated. We walked with him just to
7 make sure he was being safe. We were about 8, 10 feet
8 behind him.

9 Q Did either you or the other CNA let anyone else
10 know that he had left the building?

11 A I had asked Leo to go back in, let the nurse
12 know.

13 Q Did he do that?

14 A Yes, he did.

15 Q How long was Leo gone before he came back?

16 A Maybe minutes.

17 Q Did anyone else come out with him?

18 A Another CNA. That would be Sam.

19 Q All right. So it was you, Sam, and Leo that
20 were following Mr. Downen to start with?

21 A Correct.

22 Q When did Rose catch up with you?

23 (Mr. Di Lorenzo entered the room.)

24 A I'm going to say approximately maybe within five
25 minutes.

Page 16

1 Q (BY MR. McFARLAND) Okay. Do you know where you
2 were when Rose caught up with you guys?

3 A We were walking down the lane with the resident.

4 Q You said that Mr. Downen picked up two rocks; is
5 that right?

6 A Correct.

7 Q What did those rocks look like, I mean sizewise,
8 if you can estimate?

9 A Probably -- they were in his palm. They were
10 big enough to hold in his palm, but not much bigger than
11 that.

12 Q Outside of Door No. 2, what sort of rocks are
13 out there? Is it like a landscaping rock? Where would he
14 grab these rocks?

15 A There was some landscaping with rocks at that
16 time. It's changed now. But it was, I believe, one on
17 this side and this side (indicating) of the door.

18 Q When you say on each side of the door, one rock
19 or one landscaping area?

20 A Landscaping of rocks.

21 Q How has that changed now?

22 A They have trees out there, and if I can
23 remember, I think cement and some benches out there now.
24 They remodeled.

25 Q It's my understanding from an earlier discussion

Page 19

1 Q And is that a fairly accurate representation of
2 the facility and Veterans Drive?

3 A Yes.

4 Q What was Mr. Downen doing when he was walking
5 down Veterans Drive? Was he yelling at people? Was he
6 saying anything to you? What was going on?

7 A I was 8 to 10 feet behind him, so if he was, I
8 did not hear him yelling.

9 Q Okay. Did he ever threaten you with rocks at
10 all?

11 A Me personally, no.

12 Q Anyone in your group of CNAs?

13 A I do believe that Nurse Rose had gone up and
14 tried to redirect him, and he did lift up his arm with a
15 rock in it.

16 Q How close was she when she tried to redirect
17 him?

18 A Couple feet.

19 Q Did he throw the rock at her or swing it at her
20 or anything?

21 A He raised his hand with the rock in there in a
22 threatening pose, yes.

23 Q What happened after that?

24 A What happened after that I think she went off on
25 the side, and we just all kept proceeding to follow him